

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Teumer et al.	Confirmation No.:	5032
Serial No.:	10/534,428	Art Unit:	1657
Filed:	May 10, 2005	Examiner:	Tiffany Maureen Gough
Customer No.:	21559		
Title:	CULTIVATION OF HAIR INDUCTIVE CELLS		

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants respectfully request review of the above-referenced application prior to the filing of an Appeal Brief. This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets.

Applicants respectfully request review of the rejections made in the final Office Action dated October 14, 2008.

Claims 1, 7-21, and 29-33 are not Obvious over WO 01/74164 in view of Kishimoto and WO 99/01034, as supported by Zhu and WO 00/69449

The Office rejects claims 1, 7-21, and 29-33 under 35 U.S.C. § 103(a) for obviousness over WO 01/74164 in view of Kishimoto et al. (Genes Dev. 14:1181-1185, 2000; hereinafter “Kishimoto”) and WO 99/01034, as supported by Zhu et al. (Cancer Res. 64:7918-7926, 2004; hereinafter “Zhu”) and WO 00/69449. This rejection should be withdrawn for the reasons stated in the Reply to Final Office Action filed on February 3, 2009 (the “Reply”, which is incorporated by reference).

The Office erred in making this rejection by failing to concisely point out where the cited prior art teaches or suggests the step of culturing hair inductive cells in a culture medium containing a medium conditioned by prostate epithelial cells, as is recited in present independent claim 1, and claims dependent therefrom. None of the *prior art* cited by the Office teaches or suggests, explicitly or inherently, the culturing of hair inductive cells, such as dermal papilla and dermal sheath cells, in a medium supplemented by prostate epithelial cell-conditioned medium.

The Office cites not a single prior art reference that evens mentions prostate epithelial cells. The Office does cite a publication, Zhu, that mentions prostate epithelial cells. The problem for the Office is that Zhu is not prior art. The Office justifies its citation of Zhu because, in the words of the Office, it establishes “inherency” (see Advisory Action dated March 3, 2009). Applicants are unable to respond to this argument, which is central to this rejection, because, with all due respect, the argument is unintelligible.

The Office cites Kishimoto et al. (Genes Dev. 14:1181-1185, 2000) and WO 01/74164 for their description of the culturing of hair-inductive cells with Wnt-expressing cells. After the filing of the present application, Zhu disclosed that prostate epithelial cells express Wnts. Prior to Zhu's publication date, the fact that prostate epithelial cells express Wnts was not known.

Contrary to the Office's erroneous factual and legal conclusions, none of the cited prior art, either singly or in combination, teaches or suggests the subject matter of present claims 1, 7-21, and 29-33. The obviousness rejection of claims 1, 7-21, and 29-33 should be withdrawn.

CONCLUSION

Applicants submit that present claims 1, 7-21, and 29-33 are in condition for allowance, and such action is respectfully requested.


If there are any other charges, or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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Date: March 16, 2009

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